

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BGH HOLDINGS, LLC, a Washington limited liability company; GINGER ATHERTON; HENRY DEAN, and their marital community,

Plaintiff,

v.

D.L. EVANS BANK,

Defendant,

v.

BGH HOLDINGS, LLC; GINGER ATHERTON; HENRY DEAN; JIM DEAN; FRANK DEAN; WN3, LLC, a Washington limited liability company; and DOES 1-5

Counterclaim/Third-Party Defendants.

No. 2:18-cv-1408 RSL

STIPULATED JOINT MOTION
AND ORDER TO CONTINUE
TRIAL DATE AND REMAINING
DEADLINES

Plaintiffs BGH Holdings, LLC, Ginger Atherton, and Henry Dean (“Plaintiffs”) and Defendant D.L. Evans Bank (“the Bank”) (collectively, “the parties”) jointly request that the Court continue the trial date to October 2023 and extend all related trial deadlines, including but not limited to the deadline to file motions in limine. This relief is warranted for the following reasons:

1 1. On September 25, 2018, Plaintiffs filed their First Amended Complaint for
2 Violation of 42 U.S.C. 1983; Conversion, Unjust Enrichment, Declaratory Relief, Injunctive
3 Relief, Attorneys' Fees, and Costs and Jury Demand against the Bank. Dkt. #4.

4 2. On December 27, 2018, the Bank filed its Amended Answer, Affirmative
5 Defenses, Counterclaims and Third Party Claims of Defendant. Dkt. #18.

6 3. On September 27, 2021, the Court entered its Order Regarding Plaintiffs'
7 Response to Order to Show Cause and Plaintiffs' Motion to Dismiss Defendants' Counterclaims.
8 Dkt. #149. The Court dismissed Plaintiffs' claims under the *Rooker-Feldman* doctrine with the
9 exception of Plaintiffs' § 1983 claim, which the Court allowed to move forward "to the extent it
10 pertains to the Bank's alleged conduct in enforcing the writ of execution during the entrance and
11 search of plaintiffs' residence." *Id.* at 6. In its Order, the Court also denied Plaintiffs' motion to
12 dismiss the Bank's counterclaims. *Id.* at 14.

13 4. On August 25, 2022, the Court entered a Minute Order Setting Amended Trial
14 Date & Related Dates that set the trial date to June 5, 2023. Dkt. #155. Under LCR 16(h),
15 Plaintiffs' Pretrial Statement would be due 30 days prior to the date for filing the proposed
16 pretrial order; i.e., on April 24, 2023. The Bank's Pretrial Statement would be due 10 days later;
17 i.e., on May 4, 2023.

18 5. On November 23, 2022, the Bank filed its Renewed and Amended Motion for
19 Summary Judgment. Dkt. #158.

20 6. On May 3, 2023, the Court entered its Order on Summary Judgment. Dkt. #176.
21 The Court dismissed Plaintiffs' remaining § 1983 claim. The Court dismissed the Bank's first
22 counterclaim for declaratory judgment that "Dean's debt as reflected by the Idaho Judgment
23 and Washington Judgment is presently valid." Dkt. #176 at 24, ¶7. The Court also dismissed the
24 Bank's second counterclaim for declaratory judgment that "defendant's 'Judgment may be
25 enforced in Washington under Washington law regarding execution.'" Dkt. #176 at 25, ¶ 7. The
26 Court also and denied the Bank's motion for summary judgment as to the Bank's fraudulent
27 transfer counterclaims. *Id.* at 25-26.

7. On May 4, 2023, the Bank served its Pretrial Statement on Plaintiffs' counsel.
See Dkt. #177.

8. Plaintiffs have not yet served their Pretrial Statement on the Bank's counsel despite multiple requests from the Bank, impeding the Bank's ability to prepare its motions in limine. See Dkt. #177.

9. Plaintiffs also indicate they intend to bring a motion to dismiss Bank's remaining fraudulent transfer claims based on this Court's lack of subject matter jurisdiction. The Bank disagrees with Plaintiffs' position on jurisdiction as it contends the Court has already addressed this issue (see Dkt. #149) but understand that should the Court revisit and address subject matter jurisdiction, the issue should be adjudicated before a jury is empaneled on this case.

10. The parties agree that no further amendments shall be made or allowed.

11. The parties jointly request that the June 5, 2023, trial date and all related deadlines be adjusted by approximately six months in order to allow sufficient time for the parties to respond to the Order on Summary Judgment, including determining whether realignment is appropriate and exploring the opportunity for potential settlement negotiations in light of the Order.

12. The proposed amended schedule is as follows:

Event	Old Date	New Date
All motions in limine must be filed by and noted on the motion calendar no earlier than the second Friday thereafter. Replies will be accepted.	May 8, 2023	November 3, 2023
Agreed pretrial order due	May 24, 2023	November 27, 2023
Trial briefs, proposed voir dire questions, proposed jury instructions, and trial exhibits due	May 31, 2023	November 30, 2023
TRIAL DATE	June 5, 2023	December 4, 2023

For the foregoing reasons, the parties respectfully request the Court continue the trial and trial-related deadlines as outlined above.

DATED this 12th day of May, 2023.

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ORDER

IT IS SO ORDERED.

Dated this 15th day of May 2023.



The Honorable Robert S. Lasnik
United States District Judge